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12 *Attorneys for Plaintiff Axxess Global Sciences, LLC*

13
14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16
17 AXCESS GLOBAL SCIENCES, LLC,

18 Plaintiff,

19 v.

20 REVOLUTION LABORATORIES LLC
21 dba REVLABS, REV LABS
22 DISTRIBUTIONS LLC, and REV LABS
MANAGEMENT INC.,

23 Defendants.

Case No.:

**COMPLAINT FOR FALSE
ADVERTISING AND DECEPTIVE
TRADE PRACTICES**

JURY DEMAND

24
25 Plaintiff Axxess Global Sciences, LLC (“AGS” or “Plaintiff”) complains and
26 alleges the following against Defendants Revolution Laboratories LLC dba RevLabs, Rev
27

Labs Distributions LLC, and Rev Labs Management, Inc. (collectively, “Defendants” or “RevLabs”).

NATURE OF THE CLAIMS

1. This is an action for federal false advertising under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B) and state deceptive trade practices under the Nevada Deceptive Trade Practices Act, Nev. Rev. Stat. § 598.0915.

2. RevLabs sells a line of products including RevBurn, RevBurn AM, and RevBurn PM (collectively “RevBurn”) which purportedly contains a substance called “raspberry ketones”:



Supplement Facts		
Servings Size: 1 Capsule		
Serving Per Container: 60		
	Amount Per Serving	%DV*
Energy and Focus Blend	424 mg	**
Caffeine Anhydrous, Phenylethylamine HCl, Glucomannan (<i>Amorphophallus konjac</i>)(root),		
Thermogenesis Blend	40 mg	**
Raspberry Ketones , Yohimbe bark (<i>Pausinystalia johimbe</i>), Green Tea Extract (<i>Camellia sinensis</i>)(leaf)(min. 50% EGCG, min. 98% Polyphenols).		
Lipogenic Blend	7 mg	**
Kola Nut (<i>Cola acuminata</i>)(seed), L-Carnitine Base		
** Daily Value (DV) not established		
Other Ingredients Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide, FD&C Red #40 & Titanium Dioxide.		

<https://revlabs.com/collections/fat-burner/products/revburn>



Supplement Facts		
Serving Size: 1 Capsule		
Serving Per Container: 60		
	Amount Per Serving	%DV*
Energy and Focus Blend	450 mg	**
Caffeine, Phenylethylamine HCl, Glucomannan, Fursultiamine, L-Tyrosine		
Thermogenesis Blend	40 mg	**
Green Tea Extract (min. 50% EGCG, min. 98% Polyphenols)(leaf), Raspberry Ketones , Yohimbe bark		
Lipogenic Blend	7 mg	**
Kola Nut, L-Carnitine		
** Daily Value (DV) not established		
Other Ingredients; Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide, FD&C Red #40 & Titanium Dioxide.		

<https://revlabs.com/collections/fat-burner/products/revburn-am>



SUPPLEMENT FACTS		
Serving Size: 1 Capsules		
Servings Per Bottle: 30		
	Amount Per Serving	%DV
Vitamin D3 (Cholecalciferol)	1200 UI	300%
CLA (conjugated linoleic acid)	30 mg	**
Neurotransmitter Support Blend	25mg	**
L-Tryptophan, Melatonin, Chamomile Flower Powder		
Metabolism Support Blend	620mg	**
Raspberry Ketones , Kidney Bean (White) PE 40:1, Green Coffee Bean PE (50%) Saffron Flower PE 4:1, Lemon Balm		
** Daily Value (DV) not established		
Other Ingredients; Vegetable cellulose, Natural White Colorant, Water		

<https://revlabs.com/collections/fat-burner/products/revburn-pm-for-her>

3. In advertising materials for RevBurn, RevLabs makes broad, false health claims about raspberry ketones and RevBurn.

4. Plaintiff AGS sells legitimate exogenous ketones and ketogenic precursor supplement products. These products aid the body in producing and sustaining elevated levels of ketone bodies in the blood and assist in the body's transition into nutritional

1 ketosis.

2 5. RevLabs' false health claims misrepresent the nature, characteristics, and
3 qualities of RevBurn and raspberry ketones. These misrepresentations cause harm to the
4 public by influencing consumers to purchase products that they believe have uses, benefits,
5 or qualities that they do not have. These misrepresentations also cause harm to AGS by
6 lowering the public perception of the legitimate ketone products sold by AGS, weakening
7 the goodwill associated with AGS and its ketone supplements, and diverting sales away
8 from AGS's ketone products.

9 **THE PARTIES**

10 6. Plaintiff Access Global Sciences, LLC is a Utah limited liability company
11 with a principal place of business at 2157 Lincoln Street, Salt Lake City, UT 84106.

12 7. Defendant Revolution Laboratories LLC *dba* RevLabs is a Nevada limited
13 liability company with a registered street address at 401 Ryland St, Ste 200-A, Reno, NV,
14 89502 and a principal place of business at 990 Highland Dr #203, Solana Beach, CA 92075.

15 8. Defendant Rev Labs Distributions LLC is a Nevada limited liability
16 company with a registered street address at 401 Ryland St, Ste 200-A, Reno, NV, 89502
17 and a principal place of business at 990 Highland Dr #203, Solana Beach, CA 92075.

18 9. Defendant Rev Labs Management Inc. is a Nevada corporation with a
19 registered street address at 401 Ryland St, Ste 200-A, Reno, NV, 89502 and a principal
20 place of business at 990 Highland Dr #203, Solana Beach, CA 92075.

21 10. On information and belief, the Defendants are alter-egos of each other and
22 conspire together as a single entity for purposes of the misconduct alleged herein. Each of
23 the Defendants shares the same Nevada street address (401 Ryland St, Ste 200-A, Reno,
24 NV, 89502), the same second Nevada business address (631 N Stephanie St., Ste 533,
25 Henderson, NV, 89014), and the same principal place of business in California (990
26 Highland Dr #203, Solana Beach, CA 92075). In their business filings, each of the
27

Defendants identifies the same person—Robert Matthews—as an “individual with authority to act” on behalf of the Defendants. Defendant Rev Labs Management Inc. is the Manager and sole officer of Defendant Revolution Laboratories LLC. The officers of Defendant Rev Labs Management Inc., in turn, are Joshua Nussbaum (President, Secretary, and Treasurer) and Barry Nussbaum (Director), each with a listed address at 631 N Stephanie St., Ste 533, Henderson, NV, 89014—the same address associated with each of the three Defendants. Joshua Nussbaum is also the Manager and sole officer of Defendant Rev Labs Distributions LLC. For the foregoing reasons, the Defendants are effectively, at least for purposes of the misconduct alleged herein, the same entity.

JURISDICTION

11. This matter arises under the Lanham Act, 15 U.S.C. § 1125(a)(1)(B). Accordingly, the Court has federal question subject matter jurisdiction under 28 U.S.C. § 1331. In addition, the Court has supplemental jurisdiction over AGS’s state claims for deceptive trade practices pursuant to 28 U.S.C. § 1367.

12. This Court has personal jurisdiction because Defendants are all residents of Nevada, maintain multiple places of business in Nevada, conduct business in Nevada, have employees in Nevada, have a registered agent in Nevada, and engage in the false advertising giving rise to this action in Nevada.

13. Venue is proper in this judicial district pursuant to 28 U.S.C § 1391 because each of the Defendants reside in this judicial district and engage in a substantial part of the false advertising giving rise to this action from within this judicial district.

BACKGROUND

14. Plaintiff AGS is a leader and innovator in the field of exogenous ketones and ketogenic precursor supplements. These products aid the body in producing and sustaining elevated levels of ketones in the blood and assist the body in transitioning into nutritional ketosis.

1 15. Legitimate ketone supplements are powerful nutritional tools. Consumers
2 use legitimate ketone supplements to achieve nutritional ketosis, which reduces appetite
3 and helps achieve weight loss. Professional athletes also use legitimate ketone supplements
4 to enhance their physical performance. As described in one prominent academic journal:

5 For therapeutic effects, exogenous ketones are ingested in the form of β HB
6 salts or ketone esters to produce acute (~0.5 to 6 h) nutritional ketosis, but
7 a surge in interest in [ketone bodies] as a performance aid for athletes arose
8 when ketone ester supplementation was confirmed in professional cycling.
9 Moreover, a recent report provides the first evidence for acute nutritional
ketosis achieved by ketone ester ingestion to alter the metabolic response to
exercise and enhance exercise performance.

10 Evans, M., et al. (2017), *Metabolism of ketone bodies during exercise and training:*
11 *physiological basis for exogenous supplementation*. J PHYSIOL, 595: 2857-2871. See
12 Exhibit A.

13 16. Not all ketones, however, achieve these favorable results. Raspberry
14 ketones in particular are widely known to have no health benefits and can even be harmful:

15 [T]here is currently no evidence that raspberry ketone supplements can
16 cause weight loss in humans. These are just a few examples in order to
17 emphasize how the huge amount of misleading information [is] distributed
18 and propagated on the Internet. False information about different chemical
19 substances can be very dangerous. Besides assimilation of incorrect
information, one can get to much more serious issues, such as treating a
disease using ineffective treatments, or even worse, very toxic substances.

20 Serban, B., et al. (2018), *Chemical Compounds in the Online Environment: Quo Vadis?*, J
21 Sci. and Arts, 3:44, 739-752. See Exhibit B.

22 17. Nevertheless, some companies, like RevLabs, promote raspberry ketones
23 as having broad health benefits:

24 Perhaps the greatest threat these deceptive promotions pose is to the
25 consumers' health and property . . . [T]hese items will likely be of no
26 benefit or even cause harm. For example, thousands of women around the
27 world who are trying to lose weight are claimed to have been misled by an
internet celebrity diet scam . . . to promote the 'Raspberry Ketone Diet.'

1 However, there is currently no evidence that raspberry ketone supplements
2 can cause weight loss in humans.

3 Mookadam, F., et al. (2019), *Impact of unauthorized celebrity endorsements on*
4 *cardiovascular healthcare*, FUTURE CARDIOLOGY, 15:6, 387-390. See Exhibit C.

5 18. In its advertising for RevBurn, RevLabs bombards consumers with
6 overwhelming numbers of false claims about raspberry ketones and the purported benefits
7 of its RevBurn product:

- 8 • “What are the most powerful fat burners found in nature? Raspberry Ketones,
9 Green Coffee Bean, White Kidney Bean, Saffron Flower and Lemon Balm.
RevBurn PM has them all.”

- 10 • “Uniquely formulated to burn calories even when you’re sleeping.”

- 11 • “Burn Fat Naturally All-Night Long”

12 <https://revlabs.com/collections/fat-burner/products/revburn-pm-for-her>

- 13 • “RevLabs uses a blend of all natural fat burners comprised of Raspberry Ketones,
14 Green Coffee Bean, White Kidney Bean, Saffron Flower and Lemon Balm. All of
15 which are the most powerful fat burners found in nature.”

16 [https://revlabs.com/blogs/nutrition-hacks-from-revlabs/having-trouble-burning-](https://revlabs.com/blogs/nutrition-hacks-from-revlabs/having-trouble-burning-fat-have-your-tried-sleeping)
17 [fat-have-your-tried-sleeping](https://revlabs.com/blogs/nutrition-hacks-from-revlabs/having-trouble-burning-fat-have-your-tried-sleeping)

- 18 • “If you are really struggling to stop the binge eating, then our selection of fat
19 burners contain a range of natural ingredients that boost your metabolism and
enhance thermogenesis such as CLA, Raspberry Ketones and Green Tea Extract.”

- 20 • “We also can help you burn fat and have a great night of sleep with our RevBurn
21 PM. This amazing supplement contains powerful natural fat burning ingredients
such as raspberry ketones, green coffee bean and lemon balm.”

22 <https://revlabs.com/blogs/nutrition-hacks-from-revlabs/7-tips-to-stop-binge-eating>

- 23 • “BOOST METABOLISM & BURN FAT - Are you struggling to lose weight? The
24 ingredients within Revburn have shown to drastically increase your ability to
increase metabolism and burn unwanted fat.”

- 25 • “The #1 Ground Breaking Fat Burning Amplifier Diet Pill for Men and Women,
26 Carb Blocker & Appetite Suppressant, Weight Loss Pills”

- 1 • “BURN FAT FASTER”
- 2 • “THE MOST ADVANCED THERMOGENIC FAT BURNER”
- 3 • “RevBurn is an advanced thermogenic fat burner that stimulates the natural
- 4 breakdown of fat tissues to release usable energy, to support rapid weight loss.”
- 5 • “RAPID Fat Incineration”
- 6 • “RevLabs Thermogenic Fat Burner utilizes a dual action fat burning formula that
- 7 increases energy replenishment and rapid burning of excessive calories.”
- 8 • “RevBurn ramps up the body’s metabolic process naturally turning it into a fat
- 9 burning machine by rapidly incinerating excessive calories.”
- 10 • “HIGHLY EFFECTIVE THERMOGENIC - RevBurn is one of the best
- 11 thermogenic fat burners on the market because it delivers results!”

12 <https://www.amazon.com/dp/B01MT1595Q>

- 13 • “An advanced thermogenic fat-burning formula containing a synergistic blend of
- 14 eight ingredients to support fat loss in multiple pathways.”
- 15 • “This groundbreaking, fat burning amplifier works at the very source of metabolic
- 16 ignition.”
- 17 • “No superficial stimulation. No jitters. No crash. Just high-performance ingredients
- 18 that target the fat in your body during those intense workouts.”

19 <https://revlabs.com/collections/fat-burner/products/revburn>

- 20 • “Fat Burning Amplifier Diet Pill for Men and Women - Carb Blocker and Appetite
- 21 Suppressant - Weight Loss Pills”
- 22 • “Thermogenic Fat Burner - Increase Metabolism - Appetite Suppressant - Reduce
- 23 Food Cravings - Portion Controlled Eating - Weight Loss Support - Improve Clarity
- 24 and Focus - Boost Energy and Endurance”

25 <https://www.walmart.com/ip/147310271>

- 26 • “Thermogenic Fat Burner - Jump start your mornings with this energy-driven
- 27 Thermogenic Fat Burner.”

<https://revlabs.com/collections/fat-burner/products/revburn-am>

- “Night Time Fat Burner by RevLabs”

- “Burn Fat While You Sleep - Sleeping Better Means Faster Metabolism - Combination Of The Best Fat Burning Ingredients - Combine With Revburn for Ultimate Weight Loss Combo.”
- “Benefits: Suppress Appetite Block Fat & Carbohydrate Storage, Boost Metabolism Break Down Unhealthy Carbohydrates, Enhance Digestion, Reduce Body Fat Mass, Better Mood Improve Sleeping & Relaxation.”

<https://www.walmart.com/ip/909193312>

19. At least given the widespread industry knowledge that raspberry ketones do not have any health benefits, RevLabs makes the above claims knowing that they are false and with the intent to deceive consumers and influence them to purchase RevBurn.

20. RevLabs’ misrepresentations are detrimental and dangerous to consumers who purchase RevBurn relying on it for health benefits that it does not have. These misrepresentations also cause harm to AGS by lowering the public perception of the legitimate ketone products sold by AGS, weakening the goodwill associated with AGS and its legitimate ketone supplements, and diverting sales away from AGS’s legitimate ketone products.

21. RevLabs falsely advertises the positive effects of RevBurn and raspberry ketones on its own website and the websites of several third-party retailers, including Amazon and Walmart—the same online retailers that AGS uses.

FIRST CLAIM FOR RELIEF

**False Advertising
15 U.S.C. § 1125(a)**

22. AGS incorporates and realleges each and every allegation in paragraphs 1-21 as if fully set forth herein.

23. AGS sells legitimate exogenous ketones and ketogenic precursor supplement products that compete with raspberry ketone supplement products like RevBurn.

1 24. RevLabs has made false and misleading statements of fact about raspberry
2 ketones and the RevBurn product. These statements misrepresent the nature,
3 characteristics, uses, benefits, and qualities of raspberry ketones and the RevBurn product
4 and are expressly false, impliedly false, or both. Raspberry ketones do not aid in weight
5 loss or have any other health benefits and RevLabs has misrepresented the benefits of the
6 RevBurn product.

7 25. RevLabs has knowingly induced and caused third parties—including
8 retailers—to engage in additional acts of false advertising by repeating RevLabs’ false
9 claims regarding raspberry ketones and the RevBurn product.

10 26. At least given the widespread industry knowledge that raspberry ketones
11 serve no health benefits and can even be harmful, RevLabs knew or should have known
12 that its advertising activities were material, false, misleading, and deceptive.

13 27. RevLabs’ false and misleading statements have the tendency to deceive a
14 substantial segment of its intended audience relative to consumers’ purchasing decisions
15 for the RevBurn product, at least because the evidence on record shows the tendency of
16 this specific false advertising claim to deceive consumers.

17 28. RevLabs’ RevBurn products are offered in interstate commerce, including
18 on the internet through marketplaces such as Amazon and Walmart. Similarly, RevLabs’
19 false and misleading statements were and are made in commercial advertising and
20 promotion in interstate commerce.

21 29. RevLabs’ false advertising and violations of law have caused harm to AGS
22 and to the public and, unless restrained, will further damage AGS and the public. As a
23 result of RevLabs’ violations, AGS has suffered and will continue to suffer damage to its
24 business and goodwill. AGS has and will lose sales and profits and incur increased
25 advertising and marketing costs as a result of RevLabs’ false advertising.

1 30. AGS's immediate, irreparable injuries have no adequate remedy at law, and
2 AGS is entitled to injunctive relief and up to three times its actual damages and/or an award
3 of RevLabs' profits, as well as costs and reasonable attorney fees under 15 U.S.C. §§
4 1116–17.

5 **SECOND CLAIM FOR RELIEF**
6 **Nevada Deceptive Trade Practices Act**
7 **Nev. Rev. Stat. § 598.0915 (2013)**

8 31. AGS incorporates and realleges each and every allegation in paragraphs 1-
9 30 as if fully set forth herein.

10 32. AGS sells legitimate exogenous ketones and ketogenic precursor
11 supplement products.

12 33. RevLabs has made false and misleading statements of fact about raspberry
13 ketones and the RevBurn product. Those statements misrepresent the nature,
14 characteristics, benefits, and qualities of raspberry ketones and the RevBurn product and
15 are expressly false, impliedly false, or both. Raspberry ketones do not aid in weight loss or
16 have any other health benefits and RevBurns has misrepresented the benefits of raspberry
17 ketones and the RevBurn product.

18 34. At least given the widespread industry knowledge that raspberry ketones
19 serve no health benefits and can even be harmful, RevLabs knew or should have known
20 that its advertising activities were false, misleading, and deceptive.

21 35. RevLabs' false and misleading statements have the tendency to deceive a
22 substantial segment of its intended audience relative to consumers' purchasing decisions
23 for the RevBurn product, at least because the evidence on record shows the tendency of
24 this specific false advertising claim to deceive consumers.

1 36. RevLabs' RevBurn products are offered for sale in Nevada, including on
2 the internet. Similarly, RevLabs' false and misleading statements were and are made in
3 commercial advertising and promotion in Nevada.

4 37. In making its false advertising claims, RevLabs knowingly makes a false
5 representation as to the characteristics, ingredients, uses, and benefits of the RevBurn
6 product.

7 38. In making its false advertising claims, RevLabs also falsely represents that
8 the RevBurn product is of a particular standard, quality or grade, knowing that they it is of
9 another standard, quality, or grade.

10 39. RevLabs' violations have caused harm to AGS and to the public and, unless
11 restrained, will further damage AGS and the public.

12 **PRAYER FOR RELIEF**

13 Wherefore, AGS respectfully prays that the Court enter judgment in its favor and
14 award the following relief against RevLabs:

15 A. A judgment that RevLabs has falsely advertised the RevBurn product in
16 violation of 15 U.S.C. § 1125(a);

17 B. A judgment that RevLabs has committed deceptive trade practices in
18 violation of Nev. Rev. Stat. § 598.0915;

19 C. An order and judgment enjoining RevLabs and its officers, directors,
20 employees, agents, licensees, representatives, affiliates, related companies, servants,
21 successors and assigns, and any and all persons acting in privity or in concert with any of
22 them, from manufacturing, marketing, or selling the RevBurn product or any other
23 raspberry ketone product;

24 D. An award of actual damages in an amount to be determined at trial for false
25 advertising and for deceptive trade practices;

26 E. An award of AGS's costs and fees;
27

1 F. A judgment for punitive damages;

2 G. An order and judgment for RevLabs to promulgate corrective advertising
3 by the same media and with the same distribution and frequency as the advertising for the
4 RevBurn product;

5 H. Any such other and further relief as the Court deems proper.

6 **DEMAND FOR JURY TRIAL**

7 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, AGS demands a
8 jury trial on all matters triable to a jury.

9
10 DATED July 25, 2023.

11
12 Respectfully submitted,

13 By: /s/ James D. Boyle

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